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COMMISSION ON HUMAN RIGHTS

SUB-COMMISSION ON THE PROMOTION AND PROTECTION
OF HUMAN RIGHTS

Fifty-second session

SUMMARY RECORD OF THE 24th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 16 August 2000, at 3 p.m.

Chairperson: Ms. MOTOC

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The meeting was called to order at 3 p.m.

SITUATION REGARDING THE PROMOTION, FULL REALIZATION AND PROTECTION OF THE RIGHTS OF CHILDREN AND YOUTH (agenda item 11) (continued)

1. Mr. MIRONCHIK (Observer for Belarus) said that it was his country's policy to provide the utmost political, social and economic safeguards for children, motherhood and the family, for the sake of the current and future generations. That aim was reflected in article 32 of the Constitution, supported by the law on the rights of the child adopted by the Supreme Council of the Republic on 19 November 1993 and based on the Convention on the Rights of the Child. Protection of those rights was ensured by a number of measures, such as the National Plan for Children for 1995-2000, confirmed by the Presidential Order of 19 April 1995, and a range of programmes, including "Children of Belarus", "Children of Chernobyl", "Invalid Children" and "Orphan Children", confirmed by the Presidential Order of 6 January 1998. Each programme provided action and resources specific to the needs of the children in the category concerned.

2. Despite such efforts, however, a number of problems still gave cause for concern. One was the alarming growth in juvenile crime, for which a number of reasons could be identified, including recent socio-economic changes and the resultant fall in industrial output and growth in unemployment, as well as erosion of the status of the family, with the attendant decline in moral standards. Child health protection was a particular cause for concern, especially in the aftermath of the Chernobyl accident.

3. Over 100 non-governmental organizations (NGOs), including the Belarus Children's Fund, the "Children of Chernobyl" Committee and many others, participated actively in the task of implementing the provisions on the Convention on the Rights of the Child, including periodic appraisal of the work carried out. Those organizations were represented on the staff of the National Commission for Human Rights and in all the latter's activities, including proposals for the drafting and implementation of educational programmes and further legislation as part of the State strategy relating to the rights of the child.

4. Mr. PRASAD (Observer for India) said that India's commitment to the cause of children was as old as its civilization, and their protection, development and welfare was provided for in the Constitution. Article 24 prohibited child employment in factories, mines or any other hazardous occupations; pursuant to article 39 (e) and (f), State policy should be such that children should not be abused, be enabled to develop in a healthy manner and be protected against exploitation and moral and material abandonment. The Constitution also mentioned compulsory education up to the age of 14 years as a right to be realized progressively.

5. Further landmarks were the national policy for children, adopted in 1974, and the Integrated Child Development Services Programme, launched in 1975. In 1985, a separate Department of Women and Child Development had been set up in the Ministry of Human Resource Development, which in 1992 had formulated the National Plan of Action, following which almost all States had adopted their own plans of action for children.

6. Such action, including mass immunization campaigns, had resulted in a significant drop, over the years, in the mortality rate of all children's age groups. Elementary education for all

was a further key objective announced by the Government earlier that year. India was also committed to concerted action against child problems arising out of poverty, and was taking steps to ratify the Worst Forms of Child Labour Convention of the International Labour Organization (ILO). India had ratified the Convention on the Rights of the Child in 1992, and its first report had been considered by the Committee on the Rights of the Child in January 2000.

7. With regard to the Optional Protocols to the Convention on the Rights of the Child, his delegation was pleased to note that the one dealing with the involvement of children in armed conflicts touched on the aspect of non-State actors, particularly since, in its own region, schools were still being used to instil in young and impressionable minds the negative passions of hatred and intolerance with a view to using them as cannon fodder. It deplored the violation of children's rights in the Indian State of Jammu and Kashmir as a result of cross-border, State-sponsored terrorism. His Government was doing all it could to help the children affected, and called on those responsible for the violence to forsake such deeds.

Statement equivalent to the exercise of the right of reply

8. Mr. YOSHIDA (Observer for Japan) said that, in order to maintain educational standards, his Government to some extent controlled school curricula; most foreign schools, however, including Korean schools, were not subject to such control, which meant that their curricula were not subject to government supervision. It was for that reason that such schools were categorized as miscellaneous, not ordinary, schools in the school education law. Since the authorities could not determine the educational level of those leaving miscellaneous schools, such persons had not been deemed qualified to go to university. The Government had recently decided, however, to change its policy so as to allow such school leavers to take a university entrance examination. He stressed that the policy in question had applied to all foreign schools not subject to government regulation and that there had been no discrimination against Koreans in that context.

FREEDOM OF MOVEMENT (agenda item 10) (continued)

(a) THE RIGHT TO LEAVE ANY COUNTRY, INCLUDING ONE'S OWN, AND TO RETURN TO ONE'S OWN COUNTRY, AND THE RIGHT TO SEEK ASYLUM FROM PERSECUTION (continued)

9. Mrs. DAES said that irregular migration had become a major challenge for many States in various parts of the world. As noted in the relevant working papers or reports by the Office of the United Nations High Commissioner for Refugees (UNHCR) concern about States' ability to control their borders was growing. In recent years, some Governments had adopted measures to prevent irregular migration, mainly to combat the smuggling and trafficking of persons. Many persons subjected to such traffic were seeking better economic conditions; others were asylum-seekers and refugees from political or other persecution. Those who sought to make illicit profit from offering illegal services to such people often left them helpless in remote areas, thus sometimes occasioning loss of life. That constituted a serious crime which the Sub-Commission, in cooperation with UNHCR, should look into at its next session.

10. The measures taken by certain States to intercept persons travelling without requisite documentation - whether in the country of departure, in the transit country, within territorial waters, on the high seas or just prior to arrival in the country of destination - was not only inadequate but also could affect the rights of some asylum-seekers.

11. She proposed the addition, under agenda item 10 for the Sub-Commission's next session, of a sub-item entitled "the smuggling and trafficking of persons and the protection of their human rights". The Secretary-General should be asked to prepare an appropriate note. She also expressed her appreciation of the work of UNHCR and of the statement made by its representative.

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(agenda item 12) (E/CN.4/Sub.2/2000/2, 31-34, 38, 42 and 43; E/CN.4/Sub.2/2000/NGO/4, 13 and 15)

12. Mr. BOSSUYT, introducing his working paper on the adverse consequences of economic sanctions on the enjoyment of human rights (E/CN.4/Sub.2/2000/33) drew attention to the introduction, with particular reference to the four particular points concerning such sanctions stressed by the Sub-Commission in its resolution 1997/35. Chapter II, section F of the working paper listed six criteria to be applied in evaluating sanctions. The first was that they should be imposed only where there was a threat of or actual breach of international peace and security. The second and third stated that sanctions should target the proper parties, and proper objects, respectively. The fourth called for a reasonable time limit, and the fifth for effectiveness. The sixth was that the sanctions should be free from protest arising from violations of the "principles of humanity and the dictates of the public conscience". The fourth criterion was of particular importance in that ostensibly economic sanctions could be prolonged for political purposes.

13. The general effect of sanctions was to widen the gap between the poor and the rich. In fact, the traditional calculation of balancing civilian suffering against the desired political effects was giving way to the realization that the efficacy of a sanction regime was in inverse proportion to its impact on civilians. Chapter IV of the working paper consisted of three case studies: Iraq, Burundi, and Cuba.

14. The whole question of sanctions and their consequences for the enjoyment of human rights was a matter on which a firm position should be taken by the Sub-Commission, the Commission and the General Assembly. It was clear that, with the passage of time, views about sanctions had changed, and sanctions whose effects were seen as negligible or out of proportion to the resultant suffering could be regarded as illegal.

15. Ms. KOUFA said, with regard to the topic of terrorism and human rights, that it had been impossible for her to finalize her progress report, for a number of substantive and procedural reasons. In the first place, Sub-Commission resolution 1999/26 had been amended by Commission resolution 2000/30 with regard to the mandate and the amended mandate had been endorsed by the Economic and Social Council only a month previously. The Secretariat had thus been unable to make available to her all the relevant studies and comments - material which was made available to the Commission's relevant special rapporteurs. Moreover, the Secretariat had yet to transmit the preliminary report to Governments, specialized agencies and concerned intergovernmental and non-governmental organizations for their information and comments.

16. Because of such procedural delays she had also been unable to visit the competent services of the United Nations in order to complement her essential research and collect the requisite up-to-date information. She requested the Sub-Commission, therefore, to allow her to submit her progress report to it at its fifty-third session.

17. Ms. HAMPSON said she regretted that there was no report on reservations to human rights treaties to present to the Sub-Commission at its current session pursuant to its decision 1998/113. The Commission, in its decision 2000/18, had asked her to submit revised terms of reference, further clarifying how the study would complement current work on reservations to human rights treaties, in particular by the International Law Commission. The Commission had not authorized her appointment as Special Rapporteur and not made available the resources necessary for the task.

18. Notwithstanding the statement by the Commission, the International Law Commission's Special Rapporteur on reservations was not undertaking a study on reservations to human rights treaties but on reservations generally; as stated in her previous working paper, however, the need was for a detailed, substantive examination of the actual reservations, not an examination of the applicable law. In the view of the Special Rapporteur, therefore, there was no overlap with his own work.

19. The Sub-Commission would have before it a resolution designed to clarify the scope of the study which would ask the Commission to authorize a meeting in 2001, between the Special Rapporteur of the International Law Commission, herself and the persons chairing human rights treaty bodies or their nominees. She hoped, therefore, that there would be a preliminary report to present to the Sub-Commission at its next session.

20. Mr. KARTASHKIN, referring to the request, in Sub-Commission decision 1998/115, for him to prepare a working paper relating to the observance of the human rights and fundamental freedoms contained in the Universal Declaration of Human Rights by States not parties to relevant United Nations instruments and introducing his additional working paper on the subject (E/CN.4/Sub.2/2000/2), said that it was generally recognized by all States that they were obliged to uphold the basic rights and fundamental freedoms arising from the Charter, the Universal Declaration and the two International Covenants on Human Rights. Indeed, many of the norms enshrined in the Universal Declaration could be said to have become jus cogens.

21. However, although 150 States had ratified the two International Covenants, roughly 50 States, mostly in Africa, Asia and Latin America, had ratified neither. The obstacles to ratification seemed to be of two orders: long-standing and deep-seated problems, difficult to resolve, on the one hand, and doubts and reservations that should be easier to overcome, on the other. Among the former were situations of political instability, religious intolerance and sluggish economic growth; among the latter, lack of information and awareness about the International Covenants, false perceptions and worries about what the consequences, economic or otherwise, of ratifying those instruments would be.

22. It was encouraging that a number of States had recently begun to consider the possibility of ratifying the International Covenants, and he had already held talks with a number of Governments in that regard. Since the Commission had not been in favour of the proposal that

he had made the previous year to establish an ad hoc working group, he had since proposed the establishment of a preliminary seminar on the subject of the International Covenants, the participants in which would include the members of the Sub-Commission as well as representatives of States already parties to those instruments, who could provide information on the positive aspects of their implementation.

23. The purpose of the seminar would be to determine areas in which assistance by the United Nations to the States concerned could prove effective and to draw up agreed recommendations for the establishment of a permanent or temporary mechanism to support efforts by States to comply with the norms contained in the Universal Declaration and the two International Covenants. The seminar should focus on practical issues relating to such compliance and reasons for States' non-ratification of the two Covenants.

24. Mrs. WARZAZI congratulated Mr. Bossuyt on his working paper, which was based on a rigorous and fair-minded analysis of the facts in the light of international human rights and humanitarian instruments. The study was warranted by the catastrophic conditions in which entire populations were being forced to live as a result of economic sanctions. According to figures provided in one of the annexes to a recent report by the Secretary-General (S/2000/520), US$ 273 million were lying dormant in United Nations coffers on 17 April 2000 and the surplus on the accounts of the United Nations Monitoring, Verification and Inspection Commission amounted to $106 million. As at 31 March 2000, total approved contracts for commodities and equipment for Iraq accounted for only 40.5 per cent of the total value of oil exports. It could be calculated from available data that basic necessities (food and medical supplies) imported into Iraq between December 1996 and March 2000 amounted to $6.39 per capita per month. The value of educational products amounted to only $7 million per month, or 6.4 cents per inhabitant, over the same period.

25. The Executive Director of the United Nations Iraq Programme had reported in June 2000 that 1,180 contracts for humanitarian imports had been blocked on various pretexts. A member of the United States Congress had expressed the view that the Security Council Committee established by resolution 661 (1990) (the "sanctions Committee"), and particularly its United States members, should show more wisdom and common sense and had noted that most decisions to prohibit Iraqi purchases had been taken by just a few members.

26. The main victims of sanctions were invariably innocent civilians, especially women and children, whose basic rights were violated in flagrant breach of the Charter of the United Nations.

27. The situation in Burundi also proved that sanctions and embargoes should be condemned and rejected by the international community. The United States had unilaterally imposed sanctions on Cuba and tried to compel other States to follow suit. Many other countries were also the victims of unilateral sanctions.

28. She supported all Mr. Bossuyt's recommendations and agreed with him that the Sub-Commission should monitor developments closely and perhaps even invite the Commission on Human Rights to appoint a special rapporteur to report each year on a particular case of sanctions that flagrantly violated human rights.

29. Ms. UDAGAMA said that the international community should devote as much attention to the damage caused to human life and security by small arms and light weapons as it did to the consequences of the use of weapons of mass destruction. Determined action was needed to halt the illicit manufacture of and trafficking in such weapons. The fear that they aroused in society and the resulting instability had a devastating impact on all human rights and undermined good governance, public order, public security and economic activity. The General Assembly had recognized the close linkage between terrorism, organized crime and drug trafficking and the spread of small arms and light weapons. The Security Council had noted their adverse impact on peace agreements and peace-building measures.

30. A strong international legal regime was needed to supplement the existing regional initiatives. The United Nations General Assembly, in its resolution 54/54 V, had decided to convene a United Nations Conference on the Illicit Trade in Small Arms and Light Weapons in All Its Aspects in 2001. At the same time, work was under way on an optional protocol to combat the illicit manufacturing of and trafficking in firearms to the United Nations Convention against Transnational Organized Crime.

31. The preparatory committee for the United Nations Conference would be meeting in January and March 2001 to finalize the agenda. A strong input from United Nations human rights bodies was desirable to ensure that the human rights and humanitarian dimensions of the issue were reflected in the Conference agenda, deliberations and final outcome. The Sub-Commission should urge all such bodies, particularly the Commission on Human Rights and the Office of the High Commissioner for Human Rights (OHCHR), to become actively involved. The voices of human rights NGOs should also be heard. She understood that a coalition known as the International Action Network on Small Arms (IANSA) was already quite active in that regard.

32. Mr. WEISSBRODT said that, in the 10 years since sanctions had been imposed on Iraq, the country had experienced increasing rates of child malnutrition and mortality and deteriorating health conditions for all segments of the population. The lack of adequate infrastructure and the Government's policies had a serious adverse impact on the availability of clean water, electricity, sanitation services and other essentials. The infrastructure could not be repaired under the current sanctions regime.

33. He thanked Mrs. Warzazi for her leadership in addressing the issue of sanctions and Mr. Bossuyt for his working paper on the subject (E/CN.4/Sub.2/2000/33). In a 1999 report entitled Iraq: A Decade of Sanctions, the International Committee of the Red Cross (ICRC) had noted that it was the weakest and most vulnerable who suffered from sanctions - young children, pregnant women, the elderly and people with chronic diseases. A 1999 survey of Iraq by the United Nations Children's Fund (UNICEF) recorded high rates of infant and child mortality.

While the "oil for food" programme established under Security Council resolution 986 (1995) had alleviated some problems by allowing more food and drugs into the country, it had not prevented the collapse of the health system or the deterioration of the water supplies.

34. The Security Council had, to its credit, agreed to a proposal to establish an expert panel to consider the humanitarian situation in Iraq. The panel had reported a continuing degradation of the Iraqi economy, with an acute deterioration in the living conditions of the Iraqi population and severe strains on its social fabric. It recommended removing the ceiling on Iraqi exports, allowing private international investment to rehabilitate Iraq's oil industry, "pre-approval" of applications to import food and pharmaceutical, medical, agricultural and educational equipment, a "cash component" for payment of Iraqi workers and professionals, and steps to end intellectual and informational isolation, especially among Iraqi educators and health professionals. The recommendations had been reflected in the Secretary-General's report to the Security Council of 28 April 2000.

35. The Security Council had also received an impressive study commissioned by the International Peace Academy (IPA) entitled The Sanctions Decade: Assessing UN Strategies in the 1990s by David Cortright and George Lopez. The study considered 10 cases in which the United Nations had applied economic sanctions during the 1990s and concluded that they had generally proved ineffective but that some had been partially successful. It recommended a bargaining model for the Security Council to make sanctions more effective as an alternative to military action and suggested that the United Nations should offer incentives to sanctioned Governments if they responded positively.

36. While he agreed that the sanctions policy should be brought into line with international humanitarian and human rights standards, he was reluctant to accept Mr. Bossuyt's suggestion that it could represent a form of genocide. Genocide was defined in the Convention on the Prevention and Punishment of the Crime of Genocide as acts committed "with intent to destroy, in whole or in part, a national, ethnical, racial or religious group". It was questionable whether the element of intent had been satisfied in the case in point. Nevertheless, the Security Council, while it was certainly entitled to implement a policy designed to compel Iraq to comply with its international peace and security obligations, should not assume the authority to deprive an entire population of its most basic rights and necessities.

37. Mr. YIMER said that Mr. Bossuyt's working paper (E/CN.4/Sub.2/2000/33) was an excellent and timely study of an issue that had given rise to considerable soul-searching in the Security Council. He had rightly noted (para. 7) that there was hardly any mention of human rights and humanitarian law norms in the current extensive international dialogue. Another important point was that the right to impose sanctions - like the right to use force in time of war - was not unlimited. Sanctions must be evaluated in the light of Article 1, paragraph 1, of the Charter of the United Nations to ensure that they in no way violated principles of international law stemming from sources "outside" the Charter (para. 24). The six-prong test (paras. 41-47) provided a sound basis for evaluating sanctions with a view to making them "smarter" and avoiding an adverse impact on innocent civilians.

38. Mr. Bossuyt's suggestion that the Sub-Commission might call on the Commission on Human Rights to appoint a special rapporteur on the topic might not be appropriate for the time being. He preferred the suggestion that a member of the Sub-Commission should undertake an annual review of sanctions regimes in the light of the six-prong test.

39. Turning to Mr. Kartashkin's additional working paper (E/CN.4/Sub.2/2000/2), he expressed reservations about the inclusion of the list of countries that had not ratified the two International Covenants on Human Rights, which might not be well received by the Governments concerned.

40. It was not clear what methods had been used to identify long-term and easily removable obstacles to ratification of the two Covenants (para.12). Unless Mr. Kartashkin had based his conclusions on a questionnaire or some other form of rigorous research, they might be perceived as highly speculative.

41. Mr. YOKOTA said he had been particularly attracted by Mr. Bossuyt's six-prong test of sanctions regimes. In his view, a clear-cut distinction should be made between sanctions authorized by the Security Council and sanctions applied by one State or a small group of States. There was an article in the General Agreement on Tariffs and Trade that authorized derogations from its provisions regarding free trade where a party was acting pursuant to its obligations under the United Nations Charter, i.e. under a Security Council resolution. It was an exception that should be referred to in any future study of sanctions.

42. He expressed his sympathy for Ms. Koufa, who had apparently been unable to obtain assistance from the Secretariat and other sources. However, terrorism and human rights was an extremely important topic and he looked forward to reading her progress report the following year.

43. He also sympathized with Ms. Hampson, whose report on reservations to human rights treaties had not been authorized by the Commission on Human Rights. He was still convinced, however, that the Sub-Commission could make a constructive contribution to the debate on reservations in the International Law Commission.

44. Complimenting Mr. Kartashkin on his informative additional working paper, he stressed the importance of striking a balance between the universal ratification of treaties and the admissibility of reservations. If countries were allowed to enter reservations, more of them might be persuaded to become parties to treaties. At the same time, care must be taken to preserve the integrity of the provisions of human rights treaties. It was an issue that also concerned Ms. Hampson's field of study.

45. The Universal Declaration of Human Rights should be respected by all States and not just by States that were parties to the major international human rights instruments. He supported the idea of holding a seminar to consider obstacles to the ratification of the International Covenants on Human Rights, but thought it should not be restricted to non-parties to those treaties.

46. Mr. EIDE said that one of the best ways of pursuing an international legal dialogue on human rights was to achieve the universal ratification of human rights treaties, especially the six

core treaties with reporting procedures that brought together the Government concerned and the treaty monitoring body. A reduction in the number of reservations to treaties was also desirable, and he strongly supported the study of the topic to be undertaken by Ms. Hampson.

47. The development of communications and information technology had paved the way for a global debate on social and political issues. It was unfortunate that some States wished to block that dialogue. The Islamic Republic of Iran, for example, was blocking satellite communications. He viewed such behaviour as displaying a preference for indoctrination rather than dialogue.

48. The working paper by Mr. Bossuyt on economic sanctions (E/CN.4/Sub.2/2000/33) was extremely important. While he agreed that a distinction should be made between sanctions authorized by the Security Council and other kinds of sanctions, he stressed that the Council should not be exempt from human rights concerns. He was unsure whether the IPA study mentioned by Mr. Weissbrodt had taken the human rights and humanitarian impact of sanctions into account. He warmly welcomed the general comment on the topic adopted by the Committee on Economic, Social and Cultural Rights.

49. With regard to the sanctions on Iraq, he had not been impressed by the aide-mémoire submitted by the United Kingdom and the United States with its reference to "Iraqi propaganda", which failed to take into account inter alia the comments made by the Secretary-General. He had himself always been critical of the Iraqi Government, but the fact that it was repressive, authoritarian and unaccountable to its own people was surely beside the point.

50. The issue most relevant to the Sub-Commission was the effects of the sanctions on civilians. As for whether the sanctions regime amounted to genocide (para. 71), like Mr. Weissbrodt he thought that the charge was somewhat exaggerated, since intent was difficult to prove. He would be interested to hear Mr. Bossuyt's view on the matter. At any rate, his working paper was "very solid" and would provide a useful input to discussions.

51. In its future work on sub-item (d), the Sub-Commission should address the question of whether the agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) was compatible with human rights - a matter raised in the Human Development Report 2000.

52. Lastly, in view of the continued inability of Ms. Forero Ucros to submit her working paper under sub-item (e) (i), he thought that Ms. Udagama might be persuaded to continue the study of the topic.

53. Mr. JOINET said that he fully associated himself with the proposals made by Mr. Kartashkin in his working paper, although certain procedures might require further discussion. Surprisingly enough, the Sub-Commission had, only 10 years previously, been prohibited from questioning States in respect of obstacles to ratification of the International Covenants on Human Rights.

54. With regard to Mr. Bossuyt's working paper, he had noted with great interest the footnote pertaining to the interview with Ms. Albright. When asked how she felt about the deaths of half a million Iraqi children as a result of the sanctions, she had apparently responded that it was a

price worth paying. In view of the seriousness of that statement, the United States delegation should inform the Sub-Commission whether the quotation was an accurate one. The information in question was very relevant to any conclusion as to whether the sanctions amounted to genocide, an important issue that required further attention.

55. As far as the unilateral sanctions against Cuba were concerned, he failed to understand their utility. Nor could he comprehend what threat Cuba posed to the United States. However, the adverse consequences for the Cuban population - convincingly described in Mr. Bossuyt's working paper - were clear. The sanctions had surely also had adverse consequences for the United States, in that they had only succeeded in strengthening the Cuban cause. Public opinion was certainly against the sanctions.

56. Moreover, as pointed out in the working paper, the Helms-Burton Act had been condemned not only by 59 Governments and eight United Nations bodies, but also by the European Parliament, which could hardly be called pro-Castro. It was not for him to make pronouncements concerning international law but there was no doubt that the extraterritorial effects of that policy and its violation of the sovereignty of third States was totally unacceptable.

57. Mr. OGURTSOV, welcoming Mr. Kartashkin's additional working paper (E/CN.4/Sub.2/2000/2), said that the status of ratification of basic human rights instruments gave little reason for optimism. Decelerating rates of ratification were equally a matter of concern. It was to be hoped that the Secretary-General's appeal to countries to achieve universal ratification and to withdraw previous reservations during the millennium year would be heeded. In his final report, Mr. Kartashkin should devote particular attention to the question of reservations. Obstacles to universal ratification also required further study, as Mr. Yimer had pointed out.

58. As for the seminar for States not parties to the International Covenants on Human Rights, he agreed with Mr. Yokota that it should be open to any interested delegations. The seminar would constitute an appropriate forum for discussing the feasibility of establishing mechanisms for promoting the efforts of States to comply with their basic human rights obligations and to proceed towards universal ratification.

59. Mr. RODRÍGUEZ-CUADROS welcomed the legal approach adopted by Mr. Bossuyt in his working paper (E/CN.4/Sub.2/2000/33), which had contributed substantially to an understanding of the issue. It was clear that the human rights of thousands of people in Iraq had been adversely affected by the sanctions. The fact that discussion of the question of the legality of the sanctions had been at best peripheral was indeed most significant. Unilateral sanctions were clearly illegal, but Chapter VII of the Charter of the United Nations did provide a legal basis for international sanctions in the interests of collective security. There remained the need to identify limitations to sanctions inherent in human rights law, in the light of jus cogens. In that connection, the proposed "six-prong test" for determining the likely effect of sanctions on the enjoyment of human rights was most interesting and merited further consideration. Such a tool could encourage the Security Council to take operational criteria into account when deciding upon sanctions.

60. The right of the victims of sanctions to request compensation was a matter deserving of serious attention by the human rights system. A practical approach was in order, leading to "smart sanctions". The Sub-Commission should also seek to identify types of sanctions under Chapter VII of the Charter which would not impact negatively on human rights.

61. As to whether the sanctions imposed on Iraq amounted to "genocide", many people thought that the term was one that should be used with caution, and only on the basis of strong evidence. It was noteworthy that Mr. Bossuyt had not expressed his own opinion on the question but simply stated that some people would go as far as making a charge of genocide.

62. He endorsed the recommendations contained in Mr. Kartashkin's report, since they reflected the priorities of the entire international community. It was to be hoped that universal ratification would soon be achieved and the proposed seminar deserved the Sub-Commission's support as a means to that end.

63. Mr. ALFONSO MARTÍNEZ said that he was concerned lest agenda item 12 be given scant coverage because of the time constraints. The debate in which the Sub-Commission was engaged was most important, and all the sub-items warranted in-depth treatment.

64. As for Mr. Bossuyt's working paper, it was really a study, and a very useful one at that. He did not agree with those members who maintained that specific countries should not be cited by name in Sub-Commission documents. Mr. Bossuyt's reflections were most helpful and would serve to inform further discussion on the topic.

65. One area in which he could not fully concur with Mr. Bossuyt was his interpretation of the Security Council's powers. The major limitation imposed by Article 24, paragraph 2, of the Charter was that the Council must act in accordance with the Purposes and Principles of the United Nations. In that same paragraph, however, it was stated that the Council's specific powers were laid down in Chapters VI, VII, VIII and XII, no mention being made of Chapter IX (which dealt, inter alia, with human rights). Mr. Bossuyt had stated that, under Chapter VII, Article 39, sanctions could be imposed only in the event of a threat to - or actual breach of - international security. He had omitted to mention that sanctions might also be imposed in response to an "act of aggression".

66. He concurred fully with Mr. Bossuyt's conclusion that the "theory" behind sanctions was "bankrupt both legally and practically". He found the term "authoritarian regime" a questionable one and thought that a clearer definition was in order. As for the "six-prong test" for evaluating sanctions, the first test should surely be whether sanctions were valid under international law, rather than imposed for valid reasons.

67. With respect, also, to the case study of Iraq and "the most comprehensive, total sanctions (...) ever imposed on a country", he agreed with the comments made by Mr. Weissbrodt and other speakers. In view of the adverse consequences of the sanctions - which were accurately described in the working paper - it was clear that they were in violation of international humanitarian law as well as international human rights law.

68. He concurred with Mr. Bossuyt's assessment of the impact of sanctions on Cuba. Those sanctions were without doubt illegal, since unilateral sanctions were prohibited under international law.

69. As for the question of reservations to human rights treaties, international human rights law should not be viewed in terms of an exceptional set of laws. It was clear, therefore, that the question should be discussed with the Special Rapporteur of the International Law Commission already dealing with the topic.

70. Mr. KARTASHKIN said that the Sub-Commission's agenda was currently overloaded. Item 12 was always relegated to the end of the session when time was at a premium. In such circumstances, it was hardly possible to give proper treatment to so wide an array of important issues. The Sub-Commission should thus consider dropping some sub-items which had become somewhat less topical than others.

71. There were two issues that should be discussed under separate agenda items at the next session, namely: "terrorism and human rights" (sub-item (b) (ii)) and "the observance of the human rights and fundamental freedoms contained in the Universal Declaration of Human Rights by States not parties to United Nations human rights conventions", which came under sub-item (a) (iii).

72. Mr. BANDIER (United Towns Agency for North-South Cooperation) said that of all the issues under discussion, one issue had bearing on all the others and was never exhausted. That was the right to life, and - most importantly - to a full life. A life without social equality represented a violation of the principles of the Charter of the United Nations. As long as that very basic right was in jeopardy, it must remain a priority concern of the international community. The Sub-Commission should be commended on the wise advice it proffered to the world's leaders. Although its proposals sometimes went unheeded, it must persist in its tireless efforts towards a more harmonious, just and humane world.

73. The all too often neglected notion of "duty" should feature prominently on the Sub-Commission's agenda, since duties might even be said to have primacy over rights. Even if the term "obligation" was traditional in international human rights law, he personally thought it inaccurate. An "obligation" could mean a constraint, whereas a "duty" was dictated as much by the mind as by the heart. His organization was in the process of drafting a Universal Bill of Human Duties in the hope that it might one day serve as the basis for an amendment to the International Bill of Human Rights.

74. The world was undergoing a crisis of values, and the globalization debate risked further polarization of the international community into the rich and the poor. NGOs should attempt to play a conciliatory role and devise mechanisms for closer cooperation with the United Nations system. New education programmes were essential to the protection of human rights - a duty which was incumbent upon all.

75. Mr. KAMAROTOS (Médecins du Monde-International) said that the need to ensure protection of civilians in armed conflicts was beyond dispute. The modalities of war had changed. Caught in the cross-fire, and at the mercy of forces beyond their control, the

vulnerability of civilians had greatly increased. In the First World War, they had accounted for a mere 5 per cent of victims; in 1999, they were 95 per cent of the victims. Governments clearly lacked the political will to protect civilian populations, despite ample humanitarian evidence supplied by civil society, United Nations bodies, journalists and individuals.

76. Regrettably, there was no central body to supply objective and reliable data on civilian casualties. All too often, the only data available emanated from the propaganda machines of the warring factions. What was needed was a trustworthy mechanism for gathering data in the field, capable of providing independent analyses and recommendations. To that end, the General Assembly of the United Nations should establish a Humanitarian Commission made up of independent experts, with the participation of existing human rights mechanisms.

77. Ms. TOLD (Women's International League for Peace and Freedom), speaking also on behalf of Femmes Africa Solidarité, the International Alliance of Women, the International Council of Jewish Women, the International Council of Women, the International Movement for Fraternal Union among Races and Peoples, the World Federation of Methodist and Uniting Church Women and Zonta International, said that the widespread proliferation of small arms and light weapons was a major threat to peace and security and impeded social and economic development. In the last century, the majority of civilians killed in armed conflicts had died as a result of the use of such weapons. Their easy availability and affordability encouraged both State and non-State actors to use them rather than resolve conflicts by negotiation. Their use in domestic disputes led to human rights violations, with women suffering the most, so that women saw the presence of guns in the home as dangerous whereas men saw them as a source of security. The culture of violence encouraged by the proliferation of small arms intensified the burden on women and undermined aspirations to sustainable development and public health.

78. She requested the Sub-Commission to call on States to include the humanitarian and human rights dimension of small arms and light weapons in the agenda of the forthcoming United Nations Conference on the Illicit Trade in Small Arms and Light Weapons in All Its Aspects and to urge the Commission on Human Rights to take an active part in the preparations for the Conference. She also urged the Sub-Commission to include in its agenda the issue of the proliferation of small arms and light weapons and its consequences for women.

79. Mr. PERERA (World Federation of United Nations Associations), speaking also on behalf of the All India Women's Conference and the World Federation of Democratic Youth, said that Commission on Human Rights resolution 2000/33 on the implementation of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief had several serious shortcomings. In the first place, it virtually ignored article 13, paragraph 3, of the International Covenant on Economic, Social and Cultural Rights and article 5, paragraph 2, of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, whereby every child had the right to receive education in the matter of religion or belief in accordance with the wishes of his or her parents or legal guardians.

80. In talking of acts of violence motivated by religious intolerance and instances of discrimination on the grounds of religion or belief, the resolution failed to make it clear that all the major religions called for respect for other religions and for the beliefs of others. Their teaching could be summed up in the simple phrase "Do unto others as you would have them do unto you".

81. It was also very surprising that there was no reference at all to article 2, paragraph 5, of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, which provided that persons belonging to minorities had the right to maintain contact with members of their groups in other States without any discrimination.

82. Ms. AL TABAL (North-South XXI) said that the occupation by Israel of Arab territories was in violation of the Charter of the United Nations and posed a threat to international peace and security. The occupation was a form of aggression and resistance against it was a legitimate national right, not a form of terrorism. It was Israel that was committing terrorist acts in occupying the territories and violating the rights of the people living there. Israel was in breach of its international obligations in refusing to withdraw from occupied Jerusalem and the Golan Heights, building settlements in the occupied territories, displacing populations, closing schools, depriving people of housing and arbitrarily arresting resistance fighters. Israel must abide by United Nations resolutions urging it to respect human rights in the occupied Arab territories.

83. Mr. WARIKOO (Himalayan Research and Cultural Foundation) said that terrorism in all its forms, including ethnic cleansing, hostage-taking, bombing and subversion, was universally recognized as the main threat to domestic and international peace and security. Dangerous new aspects included the increased role of religious terrorist groups, the proliferation of small arms, narco-terrorism, money-laundering and wars by proxy using mercenaries and terrorists.

84. He urged the Special Rapporteur on terrorism and human rights to take account of the emergence in southern and central Asia of a lethal combination of cross-border terrorism, religious extremism and drugs- and arms-smuggling.

85. It was imperative to clear up the semantic confusion over the definition of terrorism, so as not to impede the process of taking firm action against terrorists, with no exceptions being made for political or other considerations. He appealed, through the Sub-Commission, for States to heed the call in Security Council resolution 1269 that they should use all lawful means to prevent and suppress terrorist acts.

86. Ms. STUCKEY (Pax Christi International) said that the war in the Democratic Republic of the Congo was about to enter its third year, with no end in sight. As a result of famine, the virtual collapse of essential services and trade and widespread terror, the population was deprived of its most basic human rights. Churches were often the only remaining channel for humanitarian assistance. Attempts to end the war, including the Lusaka Peace Accord and appeals from the Security Council, had been well intentioned but poorly implemented. Only a concerted international effort offered any hope of putting an end to the tragic situation. The international community had shown in Kosovo and East Timor that it was capable of such an effort.

87. To restore hope and peace to the people of the Democratic Republic of the Congo and central Africa would require: an immediate arms embargo; the withdrawal of all foreign troops from the territory of the Democratic Republic of the Congo; the establishment of an effective United Nations peacekeeping force; vigorous international support for the Lusaka Peace Accord; the convening of a peace conference involving all parties to the conflict; and the creation of a social development fund, to be linked to troop withdrawals and the re-establishment of civilian control and the rule of law.

88. Mr. LAVASSANI (African Commission of Health and Human Rights Promoters) said that fanatics used intolerance and discrimination based on religion as a pretext to achieve their goals, including through terrorist acts. The only way to end the scourge of intolerance and discrimination was to identify their root causes. High-minded political declarations were not enough; only after the psychological, sociological, economic and cultural causes had been identified could a permanent solution be found.

89. To give substance to the resolutions of the Sub-Commission and the Commission on Human Rights and to prevent an endless series of tragedies, he recommended that some permanent body or centre should be set up to study the social and economic roots of the tensions hidden behind religious and ethnic labels and to propose solutions that took into account the needs and religious and traditional beliefs of the societies concerned. In the field of human rights, as in medicine, prevention was better than cure.

90. Mr. BRANCH (International Educational Development Inc.) said that his organization had developed four criteria for evaluating weaponry; weapons must be limited to the field of battle; they must not have an effect after the cessation of hostilities; they must not be unduly inhumane; and they must not cause serious environmental damage. Weapons containing depleted uranium failed on all four counts, and the further use and proliferation of such weapons must be resisted.

91. Referring to the working paper prepared by Mr. Bossuyt on the adverse consequences of economic sanctions on the enjoyment of human rights (E/CN.4/Sub.2/2000/33), he said that two parts of the six-prong test for evaluating sanctions were especially important. The first was the time-limited nature of sanctions, particularly the so-called "undue future burden" effect. The after-effects of sanctions in Burundi would last for years and, if they were lifted, for a full generation in Iraq. The second important part of the test concerned the validity of the reasons for imposing sanctions. He was convinced that the United States was insisting on maintaining sanctions against Iraq to hide the effects of depleted uranium from international scrutiny and to gain unfair economic advantage under the oil-for-food programme. He urged the Sub-Commission to act on Mr. Bossuyt's recommendations regarding economic sanctions.

92. Ms. BATHA (World Evangelical Fellowship) said that people had been sentenced to imprisonment or death in some countries for holding peaceful religious beliefs. The existence of a blasphemy law carrying criminal penalties, particularly the death penalty, was a serious affront to all those concerned for human rights. In Central and Eastern Europe, the right to religious freedom was violated by the imposition of registration requirements on minority religious groups, preventing them from functioning effectively, if at all. For example, in July 2000, the

Czech Government had proposed a new bill on the registration and status of churches and religious organizations which imposed a minimum number of members and a probationary period of 10 years.

93. The harsh campaign by the authorities against Christians in the Lao People's Democratic Republic was another situation of grave concern. Christians were held in appalling conditions in prison on blatantly anti-religious charges such as "believing in the religion of Jesus". There was also a strenuous campaign to force Christians to give up their faith.

94. It was clear that religious freedom was best protected by a clear separation of the State and religion. More attention should be devoted to that issue and to religious freedom in general within the United Nations, as respect for those of other religions was central to any struggle for peace and respect for human rights.

95. Mr. SHIOKAWA (International Association of Democratic Lawyers) said that his organization had addressed a petition to the Government of Japan demanding that it immediately ratify the Optional Protocol to the International Covenant on Civil and Political Rights. The rights recognized in the Covenant were violated in Japan. For example, the Ministry of Finance was responsible for effectively excluding from the workplace a trade union acting on behalf of customs and taxation officials. Also, the right of convicts on death row to receive visits and to send and receive letters was violated, in contravention of the United Nations Basic Principles for the Treatment of Prisoners and the Government's own guidelines.

96. Ms. ALI (Afro-Asian Peoples' Solidarity Organization) said that, after a century of wars and massacres carried out in the name of religious animosity, racial discrimination and intolerance, the timing of the forthcoming World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance was an opportune one. Intolerance took many forms in daily life, but it could be tackled when the polity was designed to ensure equality for all and remedies were available to minority groups. More serious problems arose when the polity itself sought to perpetuate religious discrimination and intolerance in the belief that one group was superior to another.

97. Racial prejudice and religious intolerance often merged, with the result that terrorist groups had even sanctified the killing of Hindus and Jews in the name of religion. Such oppression was being exported through the medium of armed groups, to Indonesia and Bangladesh for example. The Hitlers of the last century were being replaced by extremist fundamentalist groups for whom almost anyone's slaughter was to be justified in the name of religion.

98. The World Conference should discuss ways to: take action against terrorist groups that preached intolerance; reform educational systems that bred ideologies of intolerance; stem financial flows to groups encouraging religious intolerance and violence; ensure that countries such as Pakistan established legal structures to ensure the equality of all religious, linguistic and ethnic minorities; and rid the world of the Taliban and their backers, who represented the most reprehensible face of intolerance.

99. Mr. SHIMOJI (World Federation of Trade Unions) said that, wherever terrorist bombs or bullets had mown down innocent people, it was children who, perhaps, suffered the most. However, children were not only victims; some children had been co-opted by terrorist groups and turned into killing machines. The plight of children who spent their formative years surrounded by violence was well-known to the international community, but he wished to draw attention to the way children were co-opted into the business of violence.

100. In Pakistan, for example, prestigious magazines carried cover photographs of very young children brandishing automatic weapons and reports of children from a religious seminary saying that all they wanted to do was to die in a jihad. If the international human rights community was to address the issue of terrorism and human rights, it must begin by demanding an immediate dismantling of educational structures that taught children the alphabet in the language of death.

The meeting rose at 6.05 p.m.